

ASSEMBLY BILL

No. 1521

Introduced by Assembly Member Jones

February 27, 2009

An act to add Sections 1359.1 and 1359.2 to the Health and Safety Code, and to add Sections 10119.4 and 10119.45 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1521, as introduced, Jones. Health care coverage: solicitation.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law regulates the solicitation of health care service plan products and health insurance. Existing law specifies that certain persons who assist applicants in submitting an application to a health care service plan or health insurer have a duty to assist those applicants in providing answers to health questions accurately and completely and requires those persons to make a specified attestation on the written application.

This bill would specify that an entity submitting an application to a plan or insurer that results in the offer, sale, or purchase of health care coverage has a fiduciary duty to the offeree or purchaser of that coverage. The bill would also require that entity to disclose to the offeree or purchaser, prior to the sale or purchase of coverage, any compensation received by the entity as fees, commissions, or any other remuneration or thing of value, as specified. The bill would prohibit the entity from

receiving any compensation other than that disclosed pursuant to these provisions.

Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1359.1 is added to the Health and Safety
2 Code, to read:

3 1359.1. An agent, broker, solicitor, solicitor firm,
4 representative, or any other entity that submits an application to a
5 health care service plan that results in the offer, sale, or purchase
6 of individual or group health care coverage from a health care
7 service plan has a fiduciary duty to the offeree or purchaser of that
8 coverage.

9 SEC. 2. Section 1359.2 is added to the Health and Safety Code,
10 to read:

11 1359.2. (a) An agent, broker, solicitor, solicitor firm,
12 representative, or any other entity that submits an application to a
13 health care service plan that results in the offer, sale, or purchase
14 of individual or group health care coverage from a health care
15 service plan shall disclose to the offeree or purchaser of that
16 coverage any compensation received by the agent, broker, solicitor,
17 solicitor firm, representative, or other entity involved in the
18 transaction as fees, commissions, or any other remuneration or
19 thing of value. The disclosure shall include any compensation to
20 be received by the agent, broker, solicitor, solicitor firm,
21 representative, or other entity at any time prior to, during, or after
22 the period of coverage as a result of the transaction or potential
23 transaction.

24 (b) The disclosure to the offeree or purchaser shall be made
25 prior to the sale or purchase of coverage.

1 (c) (1) The disclosure shall provide an estimate of the
2 percentage of the premium to be paid by the offeree or purchaser
3 as compensation to the agent, broker, solicitor, solicitor firm,
4 representative, or other entity.

5 (2) The estimate shall include the percentage of premium to be
6 paid to the agent, broker, solicitor, solicitor firm, representative,
7 or other entity in the first year of coverage and in future years, if
8 any.

9 (d) The health care service plan may provide to the offeree or
10 purchaser of individual or group health care coverage the
11 information required under this section. If the plan provides the
12 information to the offeree or purchaser, it shall also provide the
13 same information to the agent, broker, solicitor, solicitor firm,
14 representative, or other entity engaged in the transaction.

15 (e) The agent, broker, solicitor, solicitor firm, representative,
16 or other entity shall receive no compensation from the plan, the
17 offeree or purchaser, or any other source except for the
18 compensation disclosed to the offeree or purchaser pursuant to
19 this section.

20 SEC. 3. Section 10119.4 is added to the Insurance Code, to
21 read:

22 10119.4. An agent, broker, or any other entity that submits an
23 application to a health insurer that results in the offer, sale, or
24 purchase of individual or group health insurance, as defined in
25 Section 106, has a fiduciary duty to the offeree or purchaser of
26 that insurance.

27 SEC. 4. Section 10119.45 is added to the Insurance Code, to
28 read:

29 10119.45. (a) An agent, broker, or any other entity that submits
30 an application to a health insurer that results in the offer, sale, or
31 purchase of individual or group health insurance, as defined in
32 Section 106, from a health insurer shall disclose to the offeree or
33 purchaser of that insurance any compensation received by the
34 agent, broker, or other entity involved in the transaction as fees,
35 commissions, or any other remuneration or thing of value. The
36 disclosure shall include any compensation to be received by the
37 agent, broker, or other entity at any time prior to, during, or after
38 the period of insurance as a result of the transaction or potential
39 transaction.

1 (b) The disclosure to the offeree or purchaser shall be made
2 prior to the sale or purchase of insurance.

3 (c) (1) The disclosure shall provide an estimate of the
4 percentage of the premium to be paid by the offeree or purchaser
5 as compensation to the agent, broker, or other entity.

6 (2) The estimate shall include the percentage of premium to be
7 paid to the agent, broker, or other entity in the first year of
8 insurance and in future years, if any.

9 (d) The health insurer may provide to the offeree or purchaser
10 of individual or group health insurance the information required
11 under this section. If the insurer provides the information to the
12 offeree or purchaser, it shall also provide the same information to
13 the agent, broker, or other entity engaged in the transaction.

14 (e) The agent, broker, or other entity shall receive no
15 compensation from the insurer, the offeree or purchaser, or any
16 other source except for the compensation disclosed to the offeree
17 or purchaser pursuant to this section.

18 SEC. 5. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.